



INTERNATIONAL HUMAN RIGHTS LAW

Professor Rebecca J. Cook

**Fall Term
2003-2004**

**University of Toronto
Faculty of Law**

INTERNATIONAL HUMAN RIGHTS LAW

Professor Rebecca J. Cook

**Fall Term
2003-2004**

**University of Toronto
Faculty of Law**



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

<https://archive.org/details/internationalhum00cook>

International Human Rights Law

Rebecca J. Cook

Faculty of Law

University of Toronto

2003-2004

These materials have been prepared exclusively for the use of students of the Faculty of Law, University of Toronto

1. Introduction and Overview

2. Sources of International Human Rights Law: Primary Sources

International Customary Law

Treaties: Applicable Principles

a) *General Criteria for Treaty Interpretation*

b) *Scope of Protection*

Jurisprudence

Robert K. Goldman et al, The International Dimension of Human Rights
(Washington: Inter-American Development Bank, 2001)..... 1

Status of Treaties

Francisco F. Martin et al, International Human Rights: Law and Practice (The Hague / London / Boston: Kluwer Law International, 1997)..... 17

International Covenant on Civil and Political Rights..... 349

European Convention on Human Rights..... 359

American Convention on Human Rights..... 368

Jurisdiction and Procedural Issues (Standing and Exhaustion):

ICCPR Optional Protocol, Art. 5(2)(b)

European Convention, Art. 35

American Convention, Art. 46

Martin et al, International Human Rights..... 19

Goldman et al, The International Dimension of Human Rights..... 26

3. Theories of Compliance and Introductions to the Different Bodies of Protection

Harold H. Koh, "How is International Human Rights Law Enforced?" Indiana Law Journal 74 (1999): 1397-1412..... 30

Introduction to the Human Rights Committee

Raija Hanski and Martin Scheinen, eds., Leading Cases of the Human Rights Committee (Turku / Åbo, Finland: Institute for Human Rights, Åbo Akademi University, 2003)..... 41

Complaints against Canada at the United Nations Human Rights Committee, chronological listing (as of May 2003)..... 54

General Comments

Henry J. Steiner and Philip Alston, International Human Rights in Context: Law, Politics, Morals, 2nd ed. (Oxford: Oxford University Press, 2000)..... 60

Introduction to the European Court of Human Rights

Steiner and Alston, International Human Rights..... 62

Introduction to the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights

Steiner and Alston, International Human Rights..... 66

4. International Responsibility

General Principles of International Responsibility of States: Attribution

Goldman et al, The International Dimension of Human Rights..... 70

5. International Human Rights Law in Domestic Law

William A. Schabas, International Human Rights Law and the Canadian Charter (Toronto / Calgary / Vancouver: Carswell, 1991)..... 85

Ahani v. Canada (Attorney General) 58 O.R. (3d) 107-142 pp..... 97

6. Right to an Effective Remedy: ICCPR Art. 2(3), ECHR Art. 13, ACHR Art. 25

Goldman et al, The International Dimension of Human Rights..... 116

7./8. Nondiscrimination

General Comment 18: Steiner and Alston, International Human Rights..... 141

Clare Ovey and Robin White, Jacobs and White, the European Convention on Human Rights, 3rd ed. (Oxford: Oxford University Press, 2002)..... 142

Grounds

Simunek et al v. The Czech Republic, Communication No. 516/1992 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee)..... 150

Lovelace v. Canada, Communication No. 24/1977 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee), plus separate opinion of Mr. Bouziri..... 154

Toonen v. Australia, Communication No. 488/1992 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee), plus separate opinion of Mr. Wennergren..... 157

Kavanagh v. Ireland, Communication No. 819/1998 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee)..... 162

Equality: Different Cases According to Their Differences

Thlimmenos v. Greece (2001) 31 EHRR 15..... 167

Permeability

Zwaan de Vries v. The Netherlands, Communication No. 182/1984 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee)..... 174

Obligations with Respect to Nondiscrimination: Use of Temporary Special Measures

9. Positive Obligations to Respect Rights

Life

General Comment 6: Steiner and Alston, International Human Rights..... 178

Villagran Morales et al Case (The ‘Street Children’ Case)..... 179

Torture and Inhuman and Degrading Treatment

Ng v. Canada, Communication No. 469/1991 (excerpts from Hanski and Scheinen, Leading Cases of the Human Rights Committee; and Steiner and Alston, International Human Rights)..... 195

Soering v. United Kingdom (1989) 11 EHRR 439 (excerpted from Martin et al, International Human Rights: Law and Practice)..... 205

D. v. United Kingdom (1997) 24 EHRR 423..... 214

10. Religion and Conscience

General Comment 22 on Article 18 (Thought, Conscience and Religion) (1993): Steiner and Alston, International Human Rights..... 232

School Funding

Waldman v. Canada, Communication No. 694/1996 (excerpted from Hanski and Scheinen, Leading Cases of the Human Rights Committee)..... 234

<i>Proselytism (Freedom of Thought, Conscience and Religion)</i>	
<i>Kokkinakis v. Greece</i> (1994) 17 EHRR 397 (excerpted from Martin et al, <u>International Human Rights: Law and Practice</u>).....	240
<i>Head Scarf</i>	
<i>Karaduman v. Turkey</i> (European Commission of Human Rights, Application No. 16278/90, 1993).....	248
<i>Turban</i>	
<i>Singh Bhinder v. Canada</i> , Communication No. 208/1986.....	255
<i>Worship</i>	
<i>Ahmad v. United Kingdom</i> (1982) 4 EHRR 126.....	261
<i>Conscientious Objection</i>	
<i>Brinkhof v. The Netherlands</i> , Communication No. 402/1990.....	270
11. Expression, Assembly and Association	
<i>Signs – Article 19, Expression</i>	
<i>Ballantyne et al v. Canada</i> , Communications Nos. 359/1989 and 385/1989 (excerpted from Martin et al, <u>International Human Rights: Law and Practice</u>).....	277
<i>Hate Speech – Article 20</i>	
<i>J.R.T. and the W.G. Party v. Canada</i> , Communication No. 104/1981 (excerpted from Martin et al, <u>International Human Rights: Law and Practice</u>).....	283
Steiner and Alston, <u>International Human Rights</u>	285
<i>Film Censorship</i>	
<i>The Last Temptation of Christ</i> Case (Olmedo Bustos et al), 13 ACHR.....	288
12. Universalism, Relativism, Particularism	
William A. Schabas, “Canadian Ratification of the American Convention on Human Rights,” <u>Netherlands Quarterly of Human Rights</u> 16 (1998): 315-342.....	305
Human Rights General Comment on Reservations.....	333
<i>Belilos v. Switzerland</i> (1988) 10 EHRR 466 (excerpted from Martin et al, <u>International Human Rights: Law and Practice</u>).....	340